other hand, if, after so considering all of the evidence in the case you are satisfied beyond a reasonable doubt and to a moral certainty that the defendant has committed the acts as charged and constituting the crime set forth in the Information, then it becomes your duty to render a verdict of guilty.

"After you retire to the jury room you will select one of your number to act as foreman, and you will proceed with your deliberation. After you had agreed upon a verdict you will have it signed by your foreman and return it to open court. And any verdict rendered, of course, will be the unanimous verdict of the jury.

"A form of verdict has been prepared for your guidance."

The jury thereupon retired and, after due deliberation, returned a verdict of guilty. On September 15, 1944, the court imposed a fine of $250 on count 1 and suspended the imposition of sentence on count 2, placing the defendant on probation for 5 years.

1327. Misbranding of Tesano Tea. U. S. v. Tesano Tea Co., Inc., and Elmer H. Baden. Pleas of guilty. Corporate defendant fined $50, which fine was remitted. Individual defendant fined $200, which fine was paid. (F. D. C. No. 7313. Sample Nos. 79774-E, 90432-E.)

On July 18, 1944, the United States attorney for the Southern District of New York filed an information against the Tesano Tea Co., Inc., New York, N. Y., and Elmer H. Baden, alleging shipment of quantities of Tesano Tea on or about February 13 and 16, 1942, from the State of New York into the States of Ohio and Connecticut.

Analysis of a sample of the article disclosed that it consisted essentially of plant material, including senna leaves, Vaccinium leaves, yarrow herb, sweet clover, Malva flowers, chamomile flowers, fennel seed, and anise seed.

The article was alleged to be misbranded because of false and misleading statements in its labeling which represented and implied that the article would be efficacious in the treatment, mitigation, and relief of diabetes and kidney and bladder disorders; that it would aid the regenerative forces of the human body in bringing about a more normal condition; and that it would improve the health and bring about a general improvement in the conditions of persons suffering from diabetes and kidney and bladder disorders. The article would not be efficacious for the purposes claimed.

On August 11, 1944, a plea of guilty having been entered on behalf of the corporate defendant, the court imposed a fine of $50. On October 13, 1944, the individual defendant entered a plea of guilty and was fined $100 on each of 2 counts, a total fine of $200. The fine imposed on the corporation was remitted.

1328. Misbranding of Doradil. U. S. v. 19 Bottles of Doradil. Default decree of condemnation and destruction. (F. D. C. No. 12478. Sample No. 35263-F.)

On or about June 12, 1944, the United States attorney for the Southern District of Florida filed a libel against 19 bottles of Doradil at Tampa, Fla., alleging that the article had been shipped on or about December 11, 1943, and January 6 and 18, 1944, by the Ulrici Medicine Co., Inc., from New York, N. Y.

Examination disclosed that the article consisted essentially of rhubarb extract; sodium phosphate, approximately 1.3 percent; potassium iodide, approximately 0.23 percent; alcohol, 7 percent; and water.

The article was alleged to be misbranded because of false and misleading statements, appearing in an accompanying circular entitled "Doradil of Ulrici," regarding its efficacy in treating liver complaints, hepatitis, congestion, biliousness, bilious diarrhea, and constipation, and its efficacy in maintaining the correct hepatic activity, stimulating the biliary secretion, toning the liver, regulating the digestive process, and combating many causes of obstruction and flatulence. The article was alleged to be misbranded further in that the common or usual name of each active ingredient in the article, required by law to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, and devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since the information did not appear in the English language on the carton and did not appear at all upon the bottle label, and the names of the active ingredients, which were given in the Spanish language, were intermingled with the names of inactive ingredients so as

not to indicate to the ordinary purchaser which of the ingredients were active.

On July 17, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1329. Misbranding of Formula No. 4 and Formula No. 13. U. S. v. 94 Packages of Formula No. 4 and 52 Packages of Formula No. 13. Default decree of condemnation and destruction. (F. D. C. No. 11447. Sample Nos. 53826-F, 53828-F.)

On December 22, 1943, the United States attorney for the District of Arizona filed a libel against 94 packages of Formula No. 4 and 52 packages of Formula No. 13 at Tucson, Ariz., alleging that the articles had been shipped on or about November 9, 1943, by the Dietary Research Laboratories, Los Angeles, Calif.; and charging that they were misbranded. The articles were labeled in part: "Supplemental Concentrates Formula No. 4 20 Vegetable Concentrates Combined with Raw Liver, Heart Muscle and Stomach Lining Vitamins A, B, D, E and G Present in their Natural Form," and "Formula No. 13 Garlic—Parsley."

Examination of the Formula No. 4 disclosed that it consisted essentially of alfalfa and wheat with small amounts of other vegetable material and possibly animal tissue. It was alleged to be misbranded in that the statements in the labeling, "The materials for this tablet were selected for their properties of blood regeneration. A healthy blood stream is the first basic requirement of health," were false and misleading since the article would not be effective in regenerating blood or in producing a healthy blood stream.

Examination of the Formula No. 13 disclosed that it consisted essentially of garlic and parsley. It was alleged to be misbranded in that the statements in the labeling, "A Dietary Supplement in the presence of High Blood Pressure," and "A dietary supplement processed and formulated to provide an effective adjuvant to the regular or prescribed diet," were false and misleading since the article would not be effective in relieving high blood pressure, and was not an adjuvant to the diet.

The articles were also alleged to be misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

On February 7, 1944, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

1330. Misbranding of wheat germ. U. S. v. 88 Packages of Wheat Germ. Default decree of condemnation and destruction. (F. D. C. No. 12680. Sample No. 75714-F.)

On June 17, 1944, the United States attorney for the Northern District of Ohio filed a libel against 88 1-pound packages of wheat germ at Warren, Ohio, alleging that the article had been shipped on or about April 14, 1944, by the Triple Health Food Co., Rochester, N. Y. The article was labeled in part: "Triple Health (Superior) Wheat Germ * * * A Natural Medicinal Food."

Examination showed that the article was essentially wheat germ. It was alleged to be misbranded in that the label statements, "Triple Health A Vitality-Filled Body A Cheerful Mind * * * A Peaceful Spirit The Triple Health System * * * A Natural Medicinal Food * * * Twice as rich in protein as meat. Contains vitamins A, * * * E and G. Rich in organic minerals. Recommended as a physical builder. Nerve and mental tonic. Digestive and eliminative aid. Beneficial in skin conditions, etc. * * * Triple Health Food," were false and misleading since the article was not a medicinal food, would not effect the results suggested and implied, would provide nutritionally inconsequential amounts of vitamins A, E, and G, was not rich in organic minerals, and was not twice as rich in protein as meat.

The article was also alleged to be misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

On August 7, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1331. Misbranding of Harris' 121 Remedy. U. S. v. 26 Bottles and 10 Bottles of Harris' 121 Remedy. Default decree of condemnation and destruction. (F. D. C. No. 12477. Sample No. 28865-F.)

On or about June 12, 1944, the United States attorney for the Southern District of Florida filed a libel against 26 small size bottles and 10 large size bottles of the above-named product at Orlando, Fla., alleging that the article had been shipped by the Harris Medicine Co., from Dawson, Ga., on or about